

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

- - - - -	X	
GUSTAVO SANTOS,	:	16-CV-7107(DLI)
	:	
Plaintiff,	:	
	:	
-against-	:	United States Courthouse
	:	Brooklyn, New York
	:	
E T & K FOODS INC. d/b/a MET	:	
FOODS and BET-ER BY FAR	:	Monday, April 24, 2017
MEATS INC. d/b/a MET FOODS	:	2:00 p.m.
and THOMAS KALLER,	:	
individually,	:	
	:	
Defendants.	:	
- - - - -	X	

TRANSCRIPT OF CIVIL CAUSE FOR PREMOTION CONFERENCE
BEFORE THE HONORABLE DORA L. IRIZARRY
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

For the Plaintiff: THE LAW OFFICE OF JACOB ARONAUER
Attorneys for the Plaintiff
225 Broadway
New York, New York 10007
BY: JACOB ARONAUER, ESQ.

For the Defendants: SHEPPARD MULLIN RICHTER & HAMPTON, LLP
Attorneys for the Defendants
30 Rockefeller Plaza
New York, New York 10112
BY: ERIC D. RAPHAN, ESQ.
BY: SEAN J. KIRBY, ESQ.

Court Reporter: Angela Grant, RPR, CRR
Official Court Reporter

Proceedings recorded by computerized stenography. Transcript
produced by Computer-aided Transcription.

Proceedings

2

1 (In open court at 2:24 p.m.)

2 COURTROOM DEPUTY: All rise.

3 Civil cause for premotion conference. Docket
4 number 16-CV-7107. Santos versus ET&K Foods.

5 Please state your appearances.

6 MR. ARONAUER: Good afternoon, Your Honor.

7 Jacob Aronauer for the plaintiff.

8 THE COURT: Good afternoon.

9 And who is with you at counsel table?

10 MR. ARONAUER: Your Honor, to my left is Gustavo
11 Santos, the plaintiff. And to Mr. Santos' left is Carmen
12 Placenta (sic) who's a paralegal in my office.

13 THE COURT: Placencia.

14 MR. ARONAUER: Yes, Your Honor.

15 THE COURT: Not placenta.

16 She's a paralegal in your office?

17 MR. ARONAUER: Correct. Who's fluent in Spanish.

18 THE COURT: And you can't even pronounce her name
19 properly.

20 Please have a seat.

21 Good afternoon to everyone.

22 THE INTERPRETER: Your Honor, the interpreter
23 requires the microphone on.

24 THE COURT: In the first place I had directed the
25 parties to bring a certified interpreter because a hearing

Proceedings

3

1 is going to be held today right after this conference. It
2 is going to be held in front of Judge Scanlon. The Court
3 does not provide interpreters in civil matters. My order
4 was clear.

5 So why is Ms. Placencia here?

6 MR. ARONAUER: Your Honor --

7 THE COURT: Remain seated and speak into the
8 microphone so we can hear each other if you don't mind,
9 please. That's for everyone. I'll take your appearances
10 in a minute.

11 MR. ARONAUER: Your Honor, plaintiff's counsel did
12 hire a certified translator who's here today.

13 THE COURT: Who is that?

14 MR. ARONAUER: Right over there.

15 THE COURT: Oh, okay. I thought that you were
16 here from the court.

17 THE INTERPRETER: No, Your Honor.

18 THE COURT: Okay. So why don't we have your
19 appearance please for the record.

20 THE INTERPRETER: Sure. Patricia Triana,
21 federally certified interpreter.

22 THE COURT: Okay. Thank you.

23 And please administer the oath to Ms. Triana.

24 (Interpreter sworn.)

25 THE COURT: Okay. Thank you.

Proceedings

4

1 And for the defendants' appearances, please.

2 You can remain seated and speak into the
3 microphone.

4 MR. RAPHAN: Sure. Good afternoon, Your Honor.

5 My name is Eric Raphan, from the law firm of
6 Sheppard Mullin Richter & Hampton on behalf of the
7 defendants.

8 THE COURT: Good afternoon.

9 MR. RAPHAN: Good afternoon.

10 To my right is my colleague, Sean Kirby.

11 THE COURT: Yes.

12 MR. RAPHAN: And to his right is Thomas Kaller
13 who's one of the defendants.

14 THE COURT: Now, is Mr. Kaller the defendant who
15 is alleged to be the person taking photographs and otherwise
16 allegedly retaliating against Mr. Santos?

17 MR. ARONAUER: That's correct, Your Honor.

18 THE COURT: All right. Well, good afternoon to
19 everyone.

20 As I said, the hearing on whether or not in fact
21 there has been any kind of retaliatory conduct against the
22 plaintiff is referred to the magistrate judge and that will
23 happen shortly after we get done here. But I thought it
24 worthwhile to bring the parties here because, number one,
25 certainly my rules are just being just run over in a

1 slipshod manner.

2 Plaintiff's filings are not comporting with my
3 rules as I indicated in my order of April 12th. Moreover,
4 I'm at a loss as to why the plaintiff now wants to move to
5 amend the complaint to raise retaliatory claims and didn't
6 do so in January when the first complaints were made by
7 letter dated January 3rd with respect to alleged conduct by
8 the defendant against the complainant. Notably, there still
9 hadn't been an answer filed by the defendant. The plaintiff
10 has a right to amend as of right without permission of the
11 Court and could have done so earlier.

12 So I want to make it very clear both to the
13 defendant and to the plaintiff, to Mr. Santos, that this
14 Court is not going to tolerate any false filings in the
15 Court. The Court is not going to tolerate any kind of
16 obstructive conduct by either side, and the Court is not
17 going to allow itself to be used and manipulated for the
18 ends of either side.

19 Now, whether or not the defendant has, in fact,
20 engaged in any retaliatory conduct will be the subject of
21 the hearing. And as I indicated in my last order then, the
22 magistrate judge will include in the report and
23 recommendation that she'll provide to the Court whether or
24 not she believes that an amendment of the complaint is
25 warranted and whether or not there should be sanctions.

Proceedings

6

1 The sanctions go both ways. So, Mr. Santos, I
2 suggest that you need to make sure that before you make any
3 allegations, that they are, in fact, true. It is a crime to
4 make false filings in the court.

5 And for the defense, this Court is not going to
6 tolerate any retaliatory conduct against any plaintiff in
7 any case. And that also may be subject to sanctions. And
8 if, in fact, the defendant is making threats about the
9 plaintiff's immigration status, perhaps he should be careful
10 to think about whether or not he hired somebody knowingly
11 who might have been in violation of immigration laws because
12 those laws also work both ways. And it wouldn't be the
13 first time that I have referred a matter to the U.S.
14 Attorney's Office. You know, this is serious.

15 If, in fact, the plaintiff is entitled to relief
16 under the Fair Labor Standards Act under New York equivalent
17 laws, then let this play out in court. That's what the
18 court is for. That what we are here for is to play it out,
19 but everybody has to play by the rules.

20 Are we clear?

21 MR. ARONAUER: Yes, Your Honor.

22 THE COURT: Mr. Santos, do you understand what
23 I've said?

24 MR. SANTOS: Yes.

25 THE COURT: And defense counsel?

Proceedings

7

1 MR. RAPHAN: Yes, Your Honor.

2 THE COURT: Mr. Kaller?

3 MR. KALLER: Yes.

4 THE COURT: So I'm going to send you all to Judge
5 Scanlon to proceed with the hearing, and I'm going to
6 recommend whatever questioning is done be done in short
7 questions and slowly to assist Madam Interpreter to do her
8 job.

9 Okay. All right. Thank you.

10 And I'll await the Judge's report and
11 recommendation.

12 MR. RAPHAN: Thank you.

13 MR. ARONAUER: Thank you, Your Honor.

14 THE COURT: Thank you.

15 THE INTERPRETER: Thank you, Your Honor.

16 THE COURT: Thank you.

17 (Proceedings adjourned at 2:34 p.m.)
18
19
20
21
22
23
24
25

ANGELA GRANT, RPR, CRR

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter
/s/ Angela Grant May 23, 2017